



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 10 December 2012**

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**Interinstitutional File:  
2012/0033 (NLE)**

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**17277/12**

**SIRIS 112  
SCHENGEN 78  
COMIX 711  
OC 716**

**"A" ITEM NOTE**

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from: General Secretariat of the Council

to: Council

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No. prev. doc.: 16960/12 SIRIS 104 SCHENGEN 74 COMIX 670  
11142/2/12 REV 2 SIRIS 44 SCHENGEN 45 COMIX 371  
11143/2/12 REV 2 SIRIS 45 SCHENGEN 46 COMIX 372

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Subject: Council Regulations on migration from the Schengen Information System (SIS 1+) to the second generation Schengen Information System (SIS II) (recast)  
**COMMON GUIDELINES**  
**Consultation deadline for Croatia: 19 December 2012**

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1. On 3 May 2012, the Commission presented a proposal for a Council Regulation on migration from the Schengen Information System (SIS 1+) to the second generation Schengen Information System (SIS II) (recast) as set out in 9485/12 SIRIS 31 SCHENGEN 31 COMIX 284.
2. The proposal was discussed by the Working Party for Schengen Matters (Acquis) on 11 May 2012, CATS on 24 May 2012 and JHA Counsellors on 16 July 2012 and 28 November 2012.

3. In order to reflect the particular positions of Ireland and the United Kingdom, the original proposal was divided into two identical texts of proposals for Council Regulations, setting up a more "traditional" legal architecture for this kind of acts. One (11142/1/12 REV 1 SIRIS 44 SCHENGEN 45 COMIX 371 + COR 1) of the instruments dealt with the policing and judicial co-operation elements of SIS II to which those countries are bound subject to their decision under Protocol 19 (the "Schengen Protocol") and the other (11143/1/12 REV 1 SIRIS 45 SCHENGEN 46 COMIX 372 + COR 1) dealt with the border and immigration elements where those countries are not bound because it constitutes a development of the provisions of the Schengen *acquis* in which they do not take part.
4. By letter of 15 May 2012, the Council requested the Opinion of the European Parliament. By letter of 5 October 2012, the European Parliament was further requested to take into consideration the decision to split the initial proposal into two texts of proposals for Council Regulations. The European Parliament adopted its Opinion on 21 November 2012.
5. On 28 November 2012 the JHA Counsellors met to consider the Opinion of the European Parliament. They agreed to modify the proposals for Council Regulations in order to integrate some concerns expressed by the European Parliament. They also agreed to modify Recital (28) in order to accommodate a request of the Commission.
6. At its meeting on 5 December 2012, COREPER agreed unanimously on the draft Council Regulations as set out in 11142/2/12 REV 2 SIRIS 44 SCHENGEN 45 COMIX 371 and 11143/2/12 REV 2 SIRIS 45 SCHENGEN 46 COMIX 372 as they had resulted from the meeting of the JHA Counsellors on 28 November 2012, on the understanding that the sentence between square brackets in Recital (28) should be deleted.
7. The Commission informed the Committee that it would present a declaration about the use of the Comitology procedure and adoption of implementing acts to the minutes of the Council concerning the agreed text of two Council Regulations.

8. A general scrutiny reservation is still pending from FR.
  9. The draft Council Regulations which underwent the necessary scrutiny by the Lawyer-Linguists, are now set out in 16963/12 SIRIS 105 SCHENGEN 75 COMIX 671 OC 714 and 16964/12 SIRIS 106 SCHENGEN 76 COMIX 672 OC 715.
  10. On this basis, **the Council is invited to confirm the agreement reached at COREPER on 5 December 2012 and adopt the Council Regulations as set out in 16963/12 SIRIS 105 SCHENGEN 75 COMIX 671 OC 714 and 16964/12 SIRIS 106 SCHENGEN 76 COMIX 672 OC 715 with a view to be published in the Official Journal of the European Union by 30 December 2012 and to enter the declaration in the addendum to this note in its minutes.**
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